



THE  
 Truth and State  
 OF THE  
 CASE

Betwixt the Lady *Croke*, and others the Heirs  
 of Sir *Peter Vanlore* Knight, and *Thomas*  
*Levingston* Esq; and his Wife, concerning  
*Fines* unduly procured to be levied by the  
 Lady *Powell*.



N untrue or mistaken state of a Case, or a pur-  
 posed concealing the Truth of the Fact, which  
 is as the Matter upon which the Law should  
 work, and by which onely, and the Reason  
 and Equity of what appears therein, it is to  
 be guided and directed, may abuse the great-  
 est judgements and understandings, mislead  
 the best intentions of doing justice, and make them guilty of  
 those Errors and opinions, which they would not otherwise come  
 a neer or entertain.

To the end therefore that the Truth of the Case concerning  
 the *Fines* unduely procured from the Lady *Powel*, wife of Sir *Ed-  
 ward Powell* Knight, deceased, (if it were she that levied them, as  
 is pretended) by Mr. *Levingston* and his wife to disinherit the  
 heirs of Sir *Peter Vanlore* the elder, being the said Lady *Croke*,  
 wife of Sir *Robert Croke*, and others, may without any disguise, or  
 false colours put upon it, or the least diminution or prejudice there-

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of be as it hath been proved by valuable and undeniable testimonies rightly understood, that wicked design uncased, the *Sheep-skin* under which it walks and pretends to be so innocent, pull'd off, and the falsities of a printed Case of Mr. *Levingston's*, sent abroad to beget a good opinion of that which no way deserves it, clearly and truly represented, The ensuing Narrative gives the truth of the matter of Fact, as followeth.

SIR *Peter Vanlore* the elder, having issue Sir *Peter Vanlore* the younger, his onely Son, and four daughters, viz. The Lady *Powell*, the Lady *Glemham*, the Lady *Cesar*, and Mistris *Vandenbendon*, did in the third year of the reign of his late Majesty, by good assurance in Law, settle the Castle and Parkes of *Divises* in *Wiltshire* worth six hundred pounds *per annum*, and the fifth part of divers other his Mannors and Lands worth Two thousand five hundred pounds *per annum*, upon the said Lady *Powell* his daughter, and the heirs of her body; and for default of such issue, on his own right heirs for ever, being the Lady *Sterling*, the said Lady *Croke*, and Mistris *Alexander*, onely daughter and heir of the said Sir *Peter Vanlore* the younger, and entailed the fifth part of his other Lands, for default of issue of the Lady *Powell*, upon the said Lady *Sterling*, Lady *Croke*, Mistris *Alexander*, Mistris *Levingston*, Mr *Vandenbendon*, and the Lady *Glemhams* two Sons, and died.

The said Mr *Levingston*, who had married Mrs *Anne Cesar* a Neece of the said Lady *Powell*, having divers years before the said Lady *Powells* death, by confederacy with Sir *Edward Powell* her husband, used several endeavours and practices to procure her to alter her Fathers said settlement, some times by endeavouring to bribe some of her servants, who had great interest in her, and other times threatning it should cost blood if she would not do it; and all these practices proving ineffectual, for that she alwayes declared, That she would never alter her Fathers said Settlement, That she would be torn in pieces with wild horses ere she would do it, and that the childe unborn should never curse her when she was in her Grave. The said Sir *Edward Powell* did thereupon forsake her company, insomuch that he and she lived apart in several houses for about fifteen years before her death, and she perceiving (as the truth hath since made it evident) that Mr *Levingston* and his wife complied with her husband in these designs, and being displeased also with some passages in Mr *Levingston's* conversation, became so very much disaffected to them, as she often declared, That neither living nor dying, Mr *Levingston* or his wife should ever have a penny of her estate.

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Whereupon the said Confederates, *Septemb. 1651.* understanding that she was very sick at *Chelsey*, of the sickness whereof she soon after died, at a house where she had long lived separate from her said husband, and apprehending that an opportunity was thereby offered unto them to effect their former designs, and to get the said Lady *Powells* estate to be settled upon them, and disinherit the said heirs, did upon or about the fifth day of the said *September*, together with several other persons, their servants and confederates, forcibly enter into the said Ladies house, guarded and secured it with armed men, caused all her servants to be arrested, and violently to be taken away from her, without bail, upon false and feigned Actions of many thousand pounds, which were never after prosecuted, chained up the doors of the house, and in warlike manner kept it, hindered her friends, kindred and servants from coming unto her, telling them, they should never see her face any more, and informing her in the mean time, that all her friends and servants had forsaken her, engaged their Confederates to secrecy and fidelity by Rings of Gold given unto them, with a *Motto* inscribed, (*Never to be forgotten, nor yet requited*) discharged her Apothecary, for but delivering a message to her from some of her friends, placed strange and new Physicians, Apothecaries, and Servants (whom she knew not, and against her will) to attend her: And fearing lest she should make any discovery of their doings from her chamber window, which opened into a neighbours ground adjoining, did forbid that neighbour to permit any of the said Ladies friends or servants to come into the ground, or stand near the house.

And having thus by force, and practice, secluded all but themselves, did, upon the Eighteenth day of the said *September*, bring one Mr. *Warburton*, then a Judge (who knew not the said Lady) to the said Ladies House so kept by force, and procured her (as the said Judge certified) to levy several Fines of the said Premises, which Fines, as they pretend, were declared by some Writings shortly after sealed by the said Lady, to be to the use of the said Sir *Edward Powell*, Mr. *Levingston* and his Wife, and the Heirs of the said Mistress *Levingston*.

And suspecting as they had cause that the sudden death of the said Lady *Powel* who dyed on the sixth day of *October* following, might render all their Plots ineffectual, procured the said Fines to be made Fines as of *Trinity* Term before, the Kings Silver paid, the Indentures of Chirograph made, and the Fines levied and passed before her death; and yet doubting that all these Plots would not hold (wickedness filling them with fear of discovery) procured a Paper of the said Mr. *Levingstons* hand-writing to be  
subscribed



subscribed (as they pretend) by the said Lady, intimating her being well pleased with *the condition wherein she was; and that she*  
*was contented.*

And the said Lady Croke and the Heirs making their application and complaints to the Court of Common-Pleas; the Three and twentieth day of *October*, which was the First day of *Michaelmas* Term next ensuing the death of the said Lady Powell; praying that the said Fines might be vacated.

The Judges of that Court very much disliking the Certificate drawn up as aforesaid by the said Mr. *Levingston*, did in open Court tell him, that he had over-acted his part; and upon Examination of the matters aforesaid, did several times express themselves against the foulness of that practise, and said, They knew not *what was fraud and force, if these Actions were not*; but declared, That the Fines being made Fines as of *Trinity* Term before, and the Kings Silver entred, and the Indentures of Chirograph delivered before *Michaelmas* Term began, they were become Fines pleadable at Law, and not to be nullified or vacated by that Court in another Term; and that it was past their power, by the ordinary course of their Court, to relieve the Heirs against them; but believed that the Parliament *would relieve them, and that matter would sound ill in the Ears of a Parliament, and worse in the High Court of Heaven.*

And the heirs thereupon petitioning the *Convention* then called the Parliament, though they could not procure the said Cause to be fully heard and determined, by reason of the many obstructions and delays which were used by Mr. *Levingston*, did obtain so much of them, as it was in their Act of Oblivion of 1651. specially and by name particularly excepted.

And the said Sir *Edward Powell* departing this life, the said Mr. *Levingston* and his Wife, who by the death of the said Lady Powell, and as one of the Heirs of the said Sir *Peter Vanlore* the elder, enjoyeth Five hundred pounds *per annum* Lands of Inheritance which were not comprised in the Fines, designing to keep by power what they had so unjustly gotten by that undue procuring of those Fines, did transfer their interest in the Lands comprised in those Fines to *Richard Cromwell* the late *Mock-Protector*, and to other potent persons of those times of misery and confusion.

Whereupon the said Lady Croke, and the rest of the heirs exhibiting their bill in *Chancery* against Mr. *Levingston*, which was not dismissed upon hearing of the merits of the Cause, or the matter of Fact, but meerly upon a Demurrer put in to the Bill in point of Form; for the Fines and Deeds thereby complained

complained of, <sup>were</sup> ~~being~~ by the said Bill charged to have been had and procured by Force, of which the Court had no Jurisdiction; besides the then Commissioners of the *Chancery* were Mr *Lisle* and Mr *Fynes*, with whom *Richard Cromwell* may well be thought to have been something prevalent, whose cause it was rather than Mr *Levingstons*, the Estate being at that time placed in him, by Mr *Levingston*, and other his Confederates, and he did then own the cause, and personally sollicite it.

And if they had not been so over-powered, could not in the greatest of their hopes and expectation have obtained any more than a fuller discovery of the frauds and practises in procuring those Fines to be levied, and an examination of witnesses to remain upon Record, which was principally aimed at; for that the *Chancery* could binde only the persons of the said Mr *Levingston* and his wife, but not decree the Lands in question, nor make void those Fines, though gained by practice, as was agreed by the Lord Chancellor *Egerton*, and the Judges in the Star Chamber in 12 *Jac.* but it was onely to be done by Parliament, which Mr *Levingston* well understood, when in an agreement not performed, made with Mr *Vandenbenden* one of the disinherited Grand-children, to give him his share of the Lands in question; he expressly provided in the Articles of Agreement, that he should at his own costs and charges defend him against Petitions in Parliament of the rest of the heirs.

And the verdicts at Law by which Mr *Levingston* would so justify his title to those Lands, were of Lands belonging to a Farm called *Beenhams* in the County of *Berks*, of the yearly value of two hundred pounds *per annum*, not contained in the Fines, and of which (his wife having no more right then to a fifth part) he hath disseised the said heirs of the four parts, and together with Mr *Skinner* one of the pretended purchasers cut down Two thousand pounds worth of Timber and wood growing thereupon, and converted the profits thereof to their own use; and if it had been Lands within those Fines, it could be no difficult matter by the title of the said Fines and Deeds to prevail against Tenants, making small or no defences, and having no Evidences, when by the Rules and Rigor of the Law, though indirectly gained, they could not be avoided.

And had the like success at a Petty-Sessions before Sir *John Danvers* and Sir *John Thorowgood* at *Chelsey*, the Eighth of September, 1651. for the Force upon the said House the Fifth of the said September, prosecuted by Mr. *Crompton* (but none of the Heirs) upon the Statute of 8 *H.6.* where the Jury did not finde a Forcible Entry within the Statute, because the Fine and Deeds

which were to make out Mr *Cromptons* Title to the said House, were then mis-laid, and could not be produced to the Jury; but Mr. *Levingston* well knows that his Council did then confess, That a foul Force was fully proved.

But the said Deeds and Fine being afterwards found, and the parties Indicted again for the said Force in the Kings Bench in *Trinity* Term 1653. before the then Chief Justice *Roll*, they were all found guilty by an able Jury of Knights and Esquires, after a long and solemn Evidence, the parties fined 40. *l.* a piece, and a Writ of Restitution of the possession of the house awarded, as by the Records of the said Court may appear; and the Heirs have since sold the said House for 600. *l.*

All which particulars of the matters of Fact truly stated in this Case, as it hath been already proved, and may hereafter if need be clearly and truly evidenced again, may be enough to take away that care and compassion which Mr. *Levingston* and his party do pretend ought to be for the Purchasers, when as Mr. *Chaloner Chute* the Lawyer was not ignorant of the debate in the Court of Common-Pleas concerning those Fines, the Heirs Claims afterwards entred at the foot of the said Fines, and their continual claim and pursuit, and that ~~Mr. Levingston and his Wife~~ were ~~by name~~ excepted out of the Act of Oblivion in 1651. was of Counsel with them in the suit in Chancery, did put his hand to the demurrer, was privy to the Conveyances made to *Richard Cromwel* bought it ~~perducatio~~, and *mala fide*, and had so great a distrust of the Title, as he first paid but four hundred pounds and kept the rest of the money agreed to be paid in his hands for some time, and which perhaps is not yet paid, or if paid, countersecurd to be repaid again, or saved harmless: And in the Articles of Agreement, which led on their Agreement, and that supposed Purchase, there is express mention of the right of the Heirs, and a providing against it. And if he, or his Son Mr. *Chaloner Chute*, have since paid all the Money, they have been reimbursed out of the meane profits their Principal Money and Interest, or a considerable part thereof.

And Mr. *Skynner* well understood, or too much, Mr. *Levingstons* unjust Title to the Lands which he is said to have purchased, or permits his name onely to be used in Trust, or as a disguise to his use.

When as there can be no Injustice to deny Fraud and Covin, in such a forcible and illegal gaining of those Fines, any relief.

And that the pretences of an *Earthquake* likely to happen to all the Fines, Recoveries, and Common Assurances, past, and to come, and the Unsetling and Rendering incertain, all the Real Estates of  
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the Kingdom, if these naughty Fines be not made good by the Parliament, or left as they are to dis-inherit the Heirs, and to be an encouragement and ill example to those many Abuses and Deceits, which will hereafter multiply and increase, is but a fiction and fancy of those, who by affrighting such as will be so easie to believe them, in that which they do not believe themselves, do it one'y to open a way and passage to their own escape from the Justice of the Parliament.

Who will not as is hoped, give any releif unto Mr. *Levingston* and his Partners, when as he and those *Pretenders* or *Forecasters* of such *Harms* and *Shakings* like to happen, they know not when or how to Fines and Common Assurances, if they may not enjoy the Fruits of their Contrivances, will never be able to disprove any of the matters of *Fact* herein truly alleaged, or give any reason or probability.

That any disturbance or enervating of the just Powers and efficacy of Fines and Recoveries, will be occasioned or caused by the Parliaments making void by Act of Parliament those Fines, when as there was none at all upon the vacating of the Fine, by an Act of Parliament in the Reign of King *Henry* the Seventh, levied by the Lord *La Warre*, and many other by-after Parliaments.

Why the vacating of Fines illegally levied, and *in deceptionem Curie* by the Court of *Common Pleas*, in the same Term wherein they were levied, and by the Court of *Kings Bench* upon Writs of Error in other *Terms*, did not prejudice or endanger Fines and Recoveries (as it is well known they did not) in several Ages, and Kings Reigns past, nor were ever suspected to be any cause of it; and that the vacating of Illegal Fines by Act of Parliament, where Mr. *Levingston* needs not doubt, but he shall be equally and justly heard and tried before the making of any such Act, should now more then formerly, when it did the like, be feared to be dangerous or likely to produce any ill consequences. When as the Statute of 27 *Eliz.* for making void of Fraudulent Assurances, Gifts, or Grants, <sup>as against purchasers</sup> which are not seldom by Fines and Recoveries, have never since produced any.

And how the defeating of Purchasers *dolo malo*, ~~perducatum~~, ~~only by Conspiracy and Malversation~~, should or can any way prejudice or endanger the Estates of honest Purchasers *bona fide*, and upon valuable considerations.

But will according to the rules of *Justice*, *Right-Reason*, and *Equity*, rather give relief to the Heirs of Sir *Peter Vanlore*, who are oppressed and like to be undone and dis-herited by these wickedly gained Fines, and follow the *Precedents* and *Examples* of preceding Parliaments.

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II.

III.